

**RAINBOW MUNICIPAL WATER DISTRICT
EMPLOYMENT AGREEMENT FOR THE GENERAL MANAGER**

This Employment Agreement (“Agreement”) is made and entered into as of the 22nd day of August 2023 (“Effective Date”), by and between the Rainbow Municipal Water District (“District”) and Jacob Wiley (EMPLOYEE NAME) (“Employee”).

RECITALS

WHEREAS, Rainbow Municipal Water District is a municipal water district organized and operating under California Water Code sections 71000 et seq. and located at 3707 Old Hwy 395, Fallbrook, CA 92028.

WHEREAS, District wishes to engage the services of Employee as the General Manager of the District beginning September 25, 2023 (start date) and to induce the Employee to remain in such position on the terms and conditions outlined in this Agreement;

WHEREAS, Employee represents and warrants that he has the skill and ability to fulfill the requirements of the General Manager position and wishes to accept such employment on the terms and conditions outlined in this Agreement.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants herein contained, the parties hereto agree as follows:

1. EMPLOYMENT.

A. District hereby offers, and the Employee hereby accepts, the position of General Manager under the terms and conditions stated herein, beginning September 25, 2023, as an at-will employee serving at the pleasure of the Board of Directors.

B. In the capacity of General Manager, Employee shall be the Chief Executive Officer of the District. Employee shall do and perform all services, acts, or things necessary or advisable to manage and conduct the business of the District, including hiring and firing all employees other than the Board selected officers of the District, subject at all times to the policies set by the District’s Board of Directors, and to the Rules, Regulations, Policies, and Ordinances of the District, and in conformance with State and Federal laws.

C. Employee shall devote such time, interest, and effort to performing his duties to fulfill the above requirements. Employee agrees to perform such services to the best of his ability efficiently and competently, consistent with the profession’s standards. Employee understands and agrees that

this position is an exempt, salaried, full-time position with regular required work hours Monday through Friday and may require work in the evenings and weekends to fulfill the job responsibilities.

2. TERM AND RENEWAL.

A. This Agreement shall be effective as of September 25, 2023. The Term of this Agreement shall be for three (3) years, through September 26, 2026, unless sooner terminated or extended by the parties as outlined in this Agreement.

B. If the Board determines that the Employee is not to be reemployed upon expiration of this Agreement, he shall be given written notice thereof by the Board at least forty-five (45) days before the expiration of the Term of this Agreement. Should the Board fail to re-employ the Employee and the written notice provided for in this Section 2 has not been given at least forty-five (45) days before the end of the initial Term of this Agreement, then this Agreement shall thereafter continue in full force and effect beyond the expiration date of the Term unless and until either party gives at least forty-five (45) days' written notice to the other of its intent to terminate this Agreement.

3. COMPENSATION AND REIMBURSEMENT.

A. Salary. The District agrees to pay Employee for services rendered pursuant hereto at a rate of \$9,808 biweekly (\$255,008) annually, according to the procedures regularly established and as the District may amend them in its sole discretion.

B. The Employee shall be entitled to annual Cost of Living increases equal to the average 12-month increase, if any, of the most recently published Consumer Price Index (CPI) for San Diego County, with a maximum increase of 3%, effective on the anniversary of the Employee's first day of employment.

C. The Employee may receive an annual lump-sum bonus of up to \$20,000 based on achieving his goals and objectives, as determined by the Board in its sole discretion. Any lump-sum bonus will not be subject to CalPERS contributions and must be expressly memorialized in a subsequent written and executed Amendment to this Agreement. All compensation and comparable payments to be paid to Employee shall be subject to withholdings and taxes required by law.

4. BENEFITS.

In addition to the compensation and reimbursement outlined in Section 4, the Employee shall be entitled to the following benefits.

A. Automobile. The Employee shall be allowed to use a District-woned or District-leased vehicle for all use related to District business and personal use, subject to the District's vehicle use

policy. Employee agrees not to allow anyone who is not a District employee to operate a District vehicle and agrees not to drive a District vehicle under the influence of alcohol, legal or illegal drugs, or otherwise in any condition where his ability to operate a vehicle safely may be impaired.

B. Job-Related Expense Reimbursement. The District will pay the Employee's legitimate good faith business expenses incurred in connection with District business, as required under law or provided for other employees of the District and upon the same terms and conditions as those which apply to other employees of the District.

C. Dues and Subscriptions. The District shall budget and pay for the Employee's professional dues and subscriptions necessary for his continued full participation in Board-approved national, regional, state, and local associations and organizations necessary and desirable for continued professional growth and advancement and the good of the District.

D. Health Benefits. Except as otherwise provided herein, while employed with the District, Employee shall be entitled to participate in District-sponsored benefit plans, including health (medical, dental, vision, EAP, Health Savings Account benefits) and to receive the District's standard employee benefits to the extent that Employee is otherwise qualified to participate under the same cost-sharing terms as represented employees and any applicable plan eligibility rules. Consistent with applicable law, the District reserves the right to modify, supplement, rescind, or revise any provision of District benefit plans, to cease providing certain benefits, or to add new benefits from time to time as it deems necessary or appropriate in its sole discretion.

E. CalPERS Benefit. The Employee shall participate in the California Public Employment Retirement System (CalPERS) as either a "Classic Member" or a "new member," as outlined in Assembly Bill (AB) 34, which created the Public Employees' Pension Reform Act (PEPRA) effective January 1, 2013. Except as otherwise provided herein, while employed with the District, Employee shall be required to participate in the District-sponsored California Public Employees Retirement System (CalPERS) and to receive the District's standard employee pension benefits to the extent that the Employee is otherwise qualified to participate under the terms of CalPERS or District rules relating to those benefits. The District is prohibited by law from paying any portion of the mandatory employee contribution. The District will contribute the employer contribution rate as calculated by CalPERS.

F. Paid Time Off. The employee will accrue Personal Time Off (PTO) at 9.23 hours each bi-weekly pay period for 240 hours of PTO annually for the first three (3) years of employment with a maximum allowable accrual of 480 PTO hours. At the start of the fourth year of employment, the Employee will accrue at the rate of 10.77 hours per pay period or 280 hours per year, with a maximum limit for accrual of 560 hours,

G. PTO Buy Back. If the Employee has used at least 80 hours of PTO in the previous year, he may cash out up to 120 hours of PTO in January of each year, as long as he maintains a minimum

balance of 80 hours.

H. Deferred Compensation. The Employee may participate in the District's deferred compensation 457(b) and 401(a) programs. The District will contribute up to \$9,920 per year into the employee's 457(b) account; and the District will match up to \$50 per pay period of the employee's voluntary contributions to the 401(a) plan.

I. Professional Development. The District shall budget and pay for travel and subsistence expenses for Employee (as set out by applicable District practice, as it may be amended from time to time in the District's sole discretion) for Board-approved professional and official travel and meetings. Similarly, necessary functions, including, but not limited to, Board approved groups and committees of which the Employee is a member, as well as short courses, institutes and seminars necessary for the Employee's professional development and the good of the District.

J. Other Benefits. Except as otherwise provided herein, and once eligibility requirements have been met, the District agrees to provide the Employee with the same fringe benefits, including but not limited to life insurance, short-term and long-term disability insurance coverage, and all other benefits which the District, in its discretion as may be revised from time to time during the continuance of this Agreement, provides for other employees of the District and upon the same terms and conditions as those which apply to other employees of the District.

5. PERFORMANCE EVALUATION.

A. At the commencement of this Agreement, the Board and the Employee shall identify mutually defined goals and objectives for the Employee as he proceeds during the first year of this Agreement. In addition, the Board shall review and evaluate the Employee's performance in writing annually at a Board meeting in August of each year. The evaluation will also set forth mutually defined goals to be achieved by the Employee in the subsequent year. The Employee will be provided an adequate opportunity to discuss his evaluation with the Board at a Board meeting. The Employee shall be eligible, if warranted in the Board's sole discretion, to receive a merit increase of up to 6% of Employee's base salary at the conclusion of such evaluation and at any additional time determined by the Board. Any agreed salary increase must be expressly memorialized in a subsequent written and executed Amendment to this Agreement. Failure of the Board to conduct a performance evaluation shall not prohibit the Board from terminating this Agreement in accordance with Section 7 of this Agreement.

B. The performance review and evaluation process set forth herein is intended to provide review and feedback to the Employee to facilitate more effective management of the District. Nothing herein shall be deemed to alter or change the employment status of Employee, nor shall this Section be construed as requiring "cause" to terminate this Agreement or the services of Employee hereunder.

6. OUTSIDE EMPLOYMENT, CONDUCT, AND BEHAVIOR.

A. Except as authorized in section 1.C., above, during the Term of this Agreement, Employee shall not, whether directly or indirectly, render any services of a commercial or professional nature to any other person or organization, whether for compensation or otherwise, without the prior written consent of Employer. However, the expenditure of reasonable amounts of time for educational, charitable, or professional activities shall not be deemed a breach of this Agreement if those activities do not materially interfere with the services required under this Agreement and shall not require the prior written consent of Employer.

B. Employee shall comply with all local and state requirements regarding conflicts of interest and shall avoid personal involvement in situations that are inconsistent or incompatible with the position of General Manager or which give rise to the appearance of impropriety.

C. Employee agrees that all files, records, documents, equipment, software, and similar items, whether maintained in hard copy or electronically relating to District business, whether prepared by Employee or others, are and shall remain exclusively the property of the District and that they shall be removed from the premises, or if electronic, from the computer systems of the District only with the express prior written consent of the District's Board of Directors.

D. Employee covenants and agrees with Employer that Employee will not, during the initial or extended Term of this Agreement and thereafter, directly or indirectly use, communicate, disclose, or disseminate to anyone (except to the extent reasonably necessary for Employee to perform Employee's duties hereunder, except as required by law, or except if generally available to the public otherwise than through use, communication, disclosure, or dissemination by Employee) any Confidential Information (as hereinafter defined) concerning the business or affairs of Employer or of any of its affiliates or subsidiaries which Employee may have acquired in the course of or as incident to Employee's employment or prior dealings with Employer or with any of its affiliates or subsidiaries.

1. "Confidential Information" shall mean (a) all knowledge, information, trade secret, process, procedure, and/or material concerning Employer or its business or the business of any of its affiliates or subsidiaries that shall become known to Employee as a consequence of Employee's relationship with Employer, (b) all information that has been disclosed to Employer by any third party under an agreement or circumstances requiring such information to be kept confidential, and (c) all knowledge, information, trade secret, process, procedure, and/or material concerning inventions that are owned by Employer or assigned to Employer; provided that the Confidential Information shall not include knowledge, information, process, procedure, and/or material that is or becomes generally known or available to others in businesses engaged in by Employer or to the public (other than through unauthorized disclosure). Confidential Information shall include without limitation (a) information of a technical nature, such as information regarding past, present, and future research, financial data,

product information, marketing plans, computer programs (whether in source or object code form or other form and whether contained on program listings, magnetic tape, magnetic disks, CD ROMS or any other media), logic, flow charts, specifications, documentation and ideas relating to the activities of Employer, (b) information of a business nature, such as information regarding past, present, and future client development, strategies, procurement specifications, costs and financial data, contracts, quotations, and names of actual and prospective clients or customers, and (c) all documents, drawings, reports, client lists, and other physical embodiments of all such information.

- E. The Employer may set such other terms and conditions of employment as it may determine from time to time, in its sole discretion, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement or any federal, state, or local law. Employee shall also adhere to the District's Administrative Code and all of Employer's Rules, Regulations, and Policies so long as they do not conflict with this Agreement's terms. Failure to do so shall constitute a material breach of this Agreement.

7. TERMINATION AND SEVERANCE.

A. It is expressly understood that Employee, in his capacity as General Manager, is a contracted employee serving "at will" and at the pleasure of the Board, subject to termination according to the terms of this Agreement, and with no right to any hearing or appeal, including any so-called *Skelly* conference, other than the rights expressly provided in this Agreement. To the extent any District rule, regulation, or policy purports to provide rights to the Employee beyond what is articulated within this Agreement, the Employee expressly waives said rights.

B. This Agreement shall automatically terminate upon Employee's death, retirement, or permanent incapacity. As used herein, disability shall have the same meaning and be determined in the same manner as provided under the Public Employees Retirement System (PERS). Neither Employee nor his heirs, administrators, successors, or assigns shall have any right under this Agreement to salary after such death or disability, but they shall have such rights and benefits as may be provided by law.

C. The Employee serves at the will and pleasure of the Board. At any time during the Term of this Agreement or any extension thereof, the Board reserves the right to terminate the employment of Employee and determine his last day of employment upon vote of three or more members of the Board at a duly noticed Board meeting. In the event of any termination, whether with or without cause, Employee shall have no right to a hearing or other review of the reason for his termination by the District. Employee expressly waives any right to such a hearing or other review which may otherwise be granted by law.

1. If this Agreement is terminated before the end of its term “for cause” as defined below, no further compensation or benefit shall be made to the Employee. Cause shall mean severe abuse, such as fraud, embezzlement, misappropriation of District property, sexual harassment, or undue use of influence as a District official, criminal activities, whether or not prosecution or conviction occurs, Employee’s repeated failure to perform the essential functions of the job satisfactorily, including those circumstances where such failure is due the use of illegal drugs or abuse of legal drugs, including alcohol.

2. In the event the District terminates Employee’s employment for a reason other than those outlined in Section 7(C)(1), the Employee shall be entitled to the following severance per the terms of California Government Code sections 53260, *et seq.*: An amount equal to six (6) months/13 pay periods of the Employee’s then base salary and six (6) months of COBRA continuation coverage (medical, dental, vision, and EAP) provided the Employee requests such coverage; or an amount equal to his then base monthly salary multiplied by the number of months remaining on the unexpired Term of this Agreement and the same number of months of COBRA coverage, whichever is less. The Employee shall be entitled to this severance pay in a lump sum within 30 days of termination, subject to a separately negotiated Separation Agreement and General Release of Claims. Employee’s entitlement to COBRA continuation coverage under this section 7.C(2) will expire immediately upon the Employee’s eligibility to enroll in group health insurance benefits through any subsequent employer.

3. Suppose the termination of this employment contract results from the merger, consolidation, reorganization, or other change of organization of the District. In that case, the Employee shall be entitled to severance compensation equal to 12 months/26 pay periods of the Employee’s then base compensation, which will be paid in a lump sum by the District within 30 days after the termination of employment, subject to a separately negotiated Separation Agreement and Release of Claims. In addition to such severance pay, the District shall pay for COBRA continuation coverage (medical, dental, vision, and EAP) for up to 18 months following termination, provided the Employee requests coverage. Employee’s entitlement to COBRA continuation coverage under this section 8.C(3) will expire immediately upon the Employee’s eligibility to enroll in group health insurance benefits through any subsequent employer.

4. The provisions of California Government Code sections 53243 through 53243.4, as those sections now or hereafter exist, are hereby incorporated by reference into this Agreement. Thus, if Employee is convicted of a crime involving an abuse of his office or position, whether before or after release from employment, Employee shall fully reimburse the District for any severance pay, paid leave, or salary disbursed pending an investigation related to the crime, or legal criminal defense funds relevant to

the crime.

D. The Employee may voluntarily terminate this Agreement upon written notice to the Board and forty-five (45) days prior notice unless the parties otherwise agree. The District shall have the option, in its complete discretion, to terminate the Employee any time before the end of such notice period, provided the District pays the Employee all compensation due and owing through the last day worked, plus an amount equal to the base salary the Employee would have earned through the remainder of the notice period. After that, all the District's obligations under this Agreement shall cease.

E. If the Employee elects to retire, he shall give the Board six (6) months' written notice of his intent to retire from the District and receive such benefits as specified in this agreement.

8. NOTICE.

A notice or communication required or permitted to be given under this Agreement shall be effective when deposited, postage prepaid, with the United States mail. Any notice to the District shall be addressed as follows:

Rainbow Municipal Water District
3707 Old Hwy 395
Fallbrook, Ca 92028

Notice to Employee shall be addressed to his last known residence as reflected in the District's records.

9. GENERAL PROVISIONS.

A. Integration. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and this Agreement supersedes all negotiations and previous agreements between the parties with respect to all or any part of the subject matter hereof. This Agreement wholly supersedes and replaces the terms of any prior agreements and any rights contained in such agreements. Each party to this Agreement acknowledges that no representation, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, or promise not contained in this agreement shall be valid or binding on either party,

B. Duty to Defend and Indemnify. The District agrees to defend, indemnify, and hold harmless the Employee against any claim or action against him for an injury arising out of an act or omission occurring within the scope of his employment with the District as required by California Government Code Section 825, et seq. Employee must request for defense in writing not less than ten

(10) days before the day of trial, and reasonably cooperate in good faith in defense of the claim or action. If Employee does so, the District shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the District has agreed. Notwithstanding the above, the District shall only indemnify the Employee for punitive or exemplary damages as authorized in Government Code Section 825 or its successor. The District shall also provide defense to Employee as required by California Government Code Section 995 or its successor.

C. Governing Law. This Agreement shall be governed by the laws of the State of California.

D. Venue. The venue for any litigation to interpret or enforce this Agreement shall be the northern district of the San Diego Superior Court.

E. Waiver. A waiver of any term or condition of this Agreement shall not be construed as a general waiver by either party. Neither party shall be free to reinstate any such term or condition, with or without notice to the other.

F. Amendment. This Agreement may be amended occasionally, as mutually agreed by the parties in writing. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the Employee, and approved by the Board.

G. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee. Still, nothing herein shall be construed as an authorization or right of any party to assign his/its rights or obligations hereunder. Any assignment of the rights or obligations of Employee hereunder without the express written approval of the District shall be void.

H. Partial Invalidity. If any provision or any portion contained in this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement or portion thereof shall not be affected and shall remain in full force and effect.

I. Legal Consultation. Employee acknowledges that he has had the opportunity to consult legal counsel regarding this Agreement, that he has read and understands this Agreement, that he is fully aware of its legal effect, and that he has entered into it freely and voluntarily and based on his own judgment and not on any representations or promises other than those contained in this Agreement.

J. Public Record. Employee acknowledges that this Agreement, upon final execution, will become a public record under California law and available for public inspection and copying.

K. Other Terms and Conditions of Employment. The District reserves the right but does not undertake the obligation, to fix other terms and conditions of employment consistent with the

purpose of this Agreement and California law.

10. EFFECTIVE DATE.

The Parties agree that if signed by all Parties, this Agreement will take effect on the last date on which it or a counterpart hereto is signed by any Party.

I HAVE READ THIS AGREEMENT CAREFULLY AND UNDERSTAND AND AGREE TO ITS TERMS.

EMPLOYEE:

Jacob Wiley



Employee

Dated: August 22, 2023

DISTRICT:

Rainbow Municipal Water District



HAYDEN HAMILTON, Board President

Dated: 22/AUG/2023

APPROVED AS TO FORM:

Alfred Smith, Esq. General Counsel



ALFRED SMITH, General Counsel

Dated: 8-22-23

ATTEST:

Rainbow Municipal Water District, Secretary to the Board



DAWN WASHBURN, Board Secretary

Dated: 8-22-23